

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY</b>	
	<b>Chapter 14:</b> Adoption Assistance and Guardianship Assistance	<b>Effective Date:</b> July 1, 2021
	<b>Section 09:</b> Modification of an Adoption Assistance Agreement	<b>Version:</b> 3

## POLICY OVERVIEW

A request for modification of the Adoption Assistance Agreement (AAP or SAS) will only be considered when there is a change in the child's needs or family's financial circumstances. An adoptive parent who has signed an Adoption Assistance Agreement and is thus eligible to receive periodic payments may, during the term of the agreement, submit a request to modify the periodic payment amount identified in the Adoption Assistance Agreement.

## PROCEDURE

The Indiana Department of Child Services (DCS) will process a request for modification of a current Adoption Assistance Agreement, which provides ongoing financial assistance through the Indiana Adoption Assistance Program. This agreement may not be modified more than once in a consecutive 12 month period, and an initial request for modification may not be made prior to 12 months following the execution of the original Adoption Assistance Agreement unless otherwise agreed in writing by DCS and the adoptive parents.

**Note:** The modified adoption assistance periodic payment amount may not exceed the standard applicable foster care per diem amount the child would have received if the child were in foster care.

The Request for Modification of Adoption Assistance Agreement Form must be submitted to the DCS local office that handled the Child In Need of Services (CHINS) case or Juvenile Delinquency (JD) case at the time the child was adopted. If there was no CHINS or JD case when the original Adoption Assistance Agreement was signed, the request must be sent to the DCS local office that serves the county of the child's residence. The request must include the information and documentation required for an initial adoption assistance negotiation and any additional information considered relevant by the adoptive parent (14.08 Negotiations for Adoption Assistance). The request shall also include a detailed explanation of the change in the child's needs or family's financial circumstances that was not known or able to be specifically identified at the time the current periodic payment was negotiated or the most recent amendment to the agreement was determined. This may include financial documentation in support of the modification request.

When considering a request for a change in the periodic payment amount, DCS may request additional information that is determined to be relevant from the adoptive parent or any other source. Any information DCS receives from a source other than the adoptive parent will be shared with the adoptive parent. The information will be subject to redaction of personally identifiable information that DCS determines should be kept confidential for protection of the persons involved. Within 60 calendar days of the date DCS receives the requested information,

DCS will decide whether to grant or deny the request to modify the agreement and will advise the adoptive parent by letter of its decision.

If DCS' decision regarding a change to the periodic payment amount is not acceptable to the adoptive parent, the right to request an administrative review of the decision may be available. See policy 14.11 Administrative Review for Adoption Assistance for additional information.

DCS may approve a temporary change in the periodic payment. The adoptive parent may submit the Request for Modification of Adoption Assistance Agreement to request an extension of the temporary change. All changes must be reflected in a written Amendment to Adoption Agreement.

If the adoptive child is placed outside the home of the adoptive parent, and the adoptive parent is not financially responsible for the child's placement (e.g., JD or foster care), DCS may request the adoptive parent renegotiate the periodic payment amount for the duration of the out-of-home placement. Any change in the periodic payment amount will only be made by a written amendment to the agreement signed by DCS and the adoptive parent.

**Note:** If DCS determines the adoptive parent is not providing financial support to or for the benefit of the child, or the parent is no longer legally responsible for the support of the child, DCS may administratively suspend the periodic payments for the duration of the out-of-home placement or terminate the Adoption Assistance Agreement. Certain circumstances may initiate an administrative suspension of payments see policy 14.10 Continuations, Terminations, and Suspensions of Adoption Assistance for additional guidance.

If DCS is paying for the cost of an out-of-home placement of the adoptive child through a CHINS or JD case, and DCS and adoptive parent are unable to come to an agreement concerning a change in the periodic payment amount DCS will pay during the out-of-home placement, DCS will seek a child support court order for the adoptive parent to pay DCS. DCS and the adoptive parent may agree to offset the amount payable under a support order against the amount of the periodic payment, otherwise payable to the adoptive parent, under the Adoption Assistance Agreement. DCS may seek a child support court order if a person or entity other than DCS or the adoptive parent is paying for the care and maintenance of the child in the out-of-home placement.

**Note:** Effective for adoptions finalized on or after July 1, 2021, for a child identified with needs of therapeutic or therapeutic plus while in foster care, the modified adoption assistance periodic payment (AAP and SAS) for AAP will not and for SAS cannot be less than 50% of the amount that would have been payable for the child's care if the child were in foster care (per IC 31-19-26.5-10.5, which applies for SAS only).

The Family Case Manager (FCM) will notify the Local Office Director (LOD) and DCS Central Eligibility Unit (CEU) when a child receiving adoption assistance has been removed from an adoptive home.

The DCS LOD or designee will:

1. Obtain a copy of the original Adoption Assistance Agreement from the adoptive parent, DCS CEU, or the DCS local office adoption file when the Request for Modification of Adoption Assistance Agreement is received;
2. Gather information from relevant sources, including the adoptive parent, within 30

calendar days of the request to appropriately consider the request for a modification of the agreement, and complete the following steps:

- a. Determine whether a prior amendment or an initial Adoption Assistance Agreement has been executed within the previous 12 months. If so, deny the request for modification [unless there was a written agreement to waive the one (1) year requirement] and include the Request for Administrative Review form with the denial,
- b. Determine whether or not a change in the child's needs or family's financial circumstances exists that was not known or specifically identified at the time the periodic payment was negotiated if no amendment has been executed within the previous 12 months. If no change in circumstance, deny the request for modification and include the Request for Administrative Review form with the denial, or
- c. Notify the adoptive parent that the negotiations may proceed if no amendment was executed within the previous 12 months and the request documents a change in financial circumstances warranting review of the current periodic payment amount. Provide the adoptive parent with a copy of the Payment Request Information (PRI) Form, and submit a copy of the Request for Modification of Adoption Assistance form, the completed PRI, supporting documentation, a copy of the initial executed Adoption Assistance Agreement, and any subsequent amendments to [Adoption Assistance Negotiation](#) to negotiate any appropriate change in the periodic payment amount.

The DCS Central Office Attorney will:

1. Receive the completed [PRI](#) and supporting documentation from the LOD;
2. Contact the adoptive parent and negotiate an appropriate change in the periodic payment amount with regard to the modification request that has been received. This should be completed within 60 calendar days of receipt of the currently effective Adoption Assistance Agreement, the modification request, any additional information requested, and any other relevant information received from the DCS LOD or designee;
3. Contact the adoptive parent and request they renegotiate the periodic payment for the duration of the out-of-home placement. See separate policy, 14.10 Continuations, Terminations and Suspensions of Adoption Assistance Periodic Payments for additional information;

**Note:** Any change in the periodic payment amount will be reflected in an amendment to the agreement and must be signed by both the adoptive parent and DCS LOD or designee.

4. Prepare an amendment reflecting the revised terms if an agreement is reached;
5. Obtain the signature on the amendment by the adoptive parent and the DCS LOD or designee, and return the signed amendment to DCS CEU for processing; and
6. Send a notice to the adoptive parent stating there is no agreement to the modification requested if no agreement is reached and include the [Request for Administrative Review form \(SF 54348\)](#).

The DCS CEU will:

1. Complete the following when modifying the Adoption Assistance Agreement upon receipt of the request of the adoptive parent:
  - a. Provide the LOD (in the county where the CHINS case was closed due to adoption) with the Adoption Assistance Agreement if not provided by the adoptive parent, and
  - b. Process the executed Amendment to Adoption Agreement.

2. Complete the following if the adoptive child returns to DCS care:
  - a. Send the Adoption Program Status Report to the adoptive parent,
  - b. Contact the adoptive parent to discuss modification of subsidy amount,
  - c. Execute the Amendment to Adoption Agreement upon agreement with the adoptive parent,
  - d. Process the Amendment to Adoption Agreement,
  - e. Advise the local office if no agreement to modify is reached, so that an appropriate child support order may be obtained under IC 31-40-1-5, and
  - f. Terminate an Adoption Assistance Agreement, or administratively suspend periodic payments under an Adoption Assistance Agreement if it is determined the adoptive parent is not legally responsible or is not providing current support for the adoptive child. See policy 14.10 Continuations, Terminations, and Suspensions of Adoption Assistance Periodic Payments for additional information.

## LEGAL REFERENCES

- [IC 31-40-1-5 Obligation of parent or guardian for costs of placement; remittance of support payments; enforcement](#)
- [IC 31-19-26.5 Adoption Subsidies](#)
- [IC 31-19.26.5-10.5](#)
- [42 USC 673\(a\)\(4\) Adoption and Guardianship Assistance Program](#)
- [465 IAC 3 Administrative Reviews and Hearings](#)
- [465 IAC 4 Indiana Adoption Assistance and Guardianship Assistance Programs](#)

## RELEVANT INFORMATION

### Definitions

N/A

### Forms and Tools

- Adoption Assistance Agreement – Available via CEU
- [Adoption Assistance Negotiation](#) - Email address
- Adoption Program Status Report – Available via CEU
- Amendment to Adoption Agreement – Available via CEU
- Notice of Administrative Suspension of Adoption Assistance Periodic Payments – Available via CEU
- Notice of Termination of Adoption Assistance Agreement – Available via CEU
- Payment Request Information (PRI) – Available via CEU
- [Request for Administrative Review \(SF 54348\)](#)
- [Request for Modification of Adoption Assistance Agreement Form \(SF 56660\)](#)

### Related Policies

- [14.08 Negotiations for Adoption Assistance](#)
- [14.10 Continuations, Terminations, and Suspensions of Adoption Assistance](#)
- [14.11 Administrative Review for Adoption Assistance](#)